

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Floyd M. Sawyer,	:	Case No. 1:07CV3804
	:	
Petitioner	:	Judge Solomon Oliver, Jr.
	:	
v.	:	Magistrate Judge David S. Perelman
	:	
Stewart Hudson, Warden,	:	MEMORANDUM OPINION
	:	AND ORDER
Respondent	:	

Petitioner has moved to stay this action “in order for the plaintiff to determine whether this court has jurisdiction to entertain this habeas corpus action due to hte [sic] lower courts [sic] failure to make a final appealable order in compliance with the Ohio Supreme Court [sic] decision in STATE V. BAKER (2008) 119 Oh. St.3d 197, were [sic] the plaintiff’s journal entry fails to set forth the manner of conviction as mandated by Ohio Crim. Rule 32(c). In the alternative this court should dismiss this case without prjudice [sic] until this jurisdictional matter is taken care of in and by the lower trial court.”

In response to this motion respondent maintains that there is no question as to the court’s jurisdiction, as petitioner is in custody pursuant to a judgment of a court situated in Medina County, Ohio, so that “the Court should deny Petitioner’s motion to hold this case in abeyance. Instead, the Court should grant his alternative request to dismiss this case without prejudice.”

The problem is that this Court is at a loss to understand the basis of petitioner’s motion, and suspects that his reference to determining whether this court has jurisdiction is reflective of a lack

of understanding of that concept. This Court is also concerned that a dismissal, even without prejudice, could present successive petition considerations if the action was refiled.

Therefore, this Court will direct the petitioner to submit, within twenty days hereof, a clearer explanation for his apparent position that this action is not ripe to proceed. Following receipt thereof this Court will be in a better position to determine whether the action should be stayed, dismissed, or neither.

IT IS SO ORDERED.

s/DAVID S. PERELMAN
United States Magistrate Judge

DATE: July 31, 2009